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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,814	01/15/2004	Mark A. Hackler	IM1315USNA	8254
23906 7590 01/08/2007 E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1128 4417 LANCASTER PIKE WILMINGTON, DE 19805			EXAMINER SELLS, JAMES D	
			ART UNIT	PAPER NUMBER
			1734	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/08/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/759,814

Applicant(s)

HACKLER ET AL.

Examiner

James Sells

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 31-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 31-63 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Johnson et al (WO 01/18604).

Johnson discloses a method and apparatus for thermal processing a photosensitive element. As shown in Fig. 15, the system comprises photosensitive sheet 16, which is fed onto drum 18. Heater 300 heats the sheet in the manner claimed by the applicant. Plate processor 10a includes a delivery means for feeding continuous absorbent web 76 of non-woven material, which contacts the hot roller. Blower 356 and shroud 358 extend around drum in close proximity to surface 22. Vacuum fan unit 368 forms a plenum with underpart of conveyor 144a to control fumes from heating the composition later on sheet 16. The exhaust from unit 368 is vented through conduit 370. See page 28, line 13 through page 35, line 3.

The applicant is reminded that the materials used are not germane to the patentability of an apparatus claim.

### ***Response to Arguments***

3. Applicant's arguments filed October 19, 2006 have been fully considered but they are not persuasive.

Applicant argues the claimed invention includes means for collecting vapor at or adjacent to the heating means while Johnson et al (WO 01/18604) collects vapor at a location far from the heating station. The examiner does not agree.

First, applicant's claims merely recite that the means for collecting vapor is at or adjacent to the heating means. Giving applicant's claims their broadest, reasonable interpretation, means for collecting vapor can include a plenum as well as vents, conduits and/or ducts which contribute to the collection of vapor in the manner of applicant's disclosed collection member 55. Thus, the examiner believes the disclosure of Johnson et al anticipated applicant's claimed invention.

Second, the term "adjacent" may be a broader term than applicant intended to claim. For example, detached houses can be positioned adjacent to each other without touching each other. In manufacturing equipment, the term "adjacent" means in the vicinity of or next to but separated from. Since applicant's specification does not provide specific guidance about how close the means for collecting vapor is to the heating means, the examiner believes the disclosure of Johnson et al anticipates applicant's claimed invention.

Applicant is reminded that "[e]xpressions relating the apparatus to contents thereof during an intended operation are of no significance in determining the patentability of the apparatus claim." *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App 1969). Furthermore, "Inclusion of material or article worked upon by a structure being

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claimed does not impart patentability to the claims." *In re Young*, 75 F.2d 966, 25 USPQ 69 (CCPA 1935) (as restated in *In re Otto*, 312 F.2d 937, 136 USPQ 458, 459 (CCPA 1963)).

#### ***Telephone/Fax***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sells whose telephone number is (571) 272-1237. The examiner can normally be reached on Monday-Friday between 9:30 AM and 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

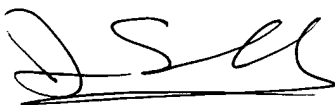
#### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

A handwritten signature in black ink, appearing to read 'J Sells', written over a horizontal line.

**JAMES SELLS  
PRIMARY EXAMINER  
TECH. CENTER 1700**